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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,975	09/29/2006	Maik Bienas	1454.1709	4081
21171	7590	10/03/2008	EXAMINER	
STAAS & HALSEY LLP			DONADO, FRANK E	
SUITE 700				
1201 NEW YORK AVENUE, N.W.			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20005			2617	
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			10/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/573,975	BIENAS ET AL.	
	Examiner	Art Unit	
	FRANK DONADO	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 September 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 15-28 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 15-28 is/are rejected.
 7) Claim(s) 28 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 30 March 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/09/06</u> . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Objections

1. Claim 28 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 15 recites the limitation "**the at least one radio signal**". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 15-16, 19-20 and 22-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergendorff (**WIPO Publication WO 02/078382**).

Regarding claim 15, Bergendorff teaches a method of determining a local position of a first mobile radio communication device in a radio cell of a radio network of a radio communication system, comprising: transmitting position information from at least one second mobile communication device, the location of which is known either to the at least one second mobile communication device or to the radio network, and which is either in the radio cell or in another radio cell, the at least one radio signal being transmitted to the first mobile radio device via either a direct radio connection or an indirect radio connection via the radio network (**Pg. 3, lines 11-19 and 28-32, Pg. 4, lines 33-35 and Pg. 6, lines 29-32**).

Regarding claim 16, Bergendorff teaches a method according to claim 15, further comprising emitting an inquiry signal from the first mobile radio communication device via its radio interference requesting that each second mobile radio communication device send a radio information signal with position information thereof to the first mobile radio communication device (**Pg. 6, lines 27-32**).

Regarding claim 19, Bergendorff teaches a method according to claim 16, wherein the inquiry signal is a broadcast radio signal (**The location signal transmitted is a GPS signal, which is a radio signal, Pg. 3, lines 33-35**).

Regarding claim 20, Bergendorff teaches method according to claim 16, wherein each second mobile radio communication device sends the one radio information

signal within a predetermined response period for each respective second mobile radio communication device (**Precise locationing in the method for communications involves a condition for an observation time, Pg. 7, lines 4-11**).

Regarding claims 22 and 23, Bergendorff teaches a method according to claim 16, wherein a time difference between a receipt of an inquiry signal and a sending a radio information signal by each respective second mobile radio communication device is included in each radio information signal as a position parameter of the position information, and a current position of each respective second mobile radio communication device and/or a sending time of the radio information signal from each respective second mobile radio communication device is included in each radio information signal as a position parameter of the position information. (**The observation times, which are the sending times, of both communication units are used as a condition to determine the quality level of the signals used for position determination, Pg. 7, lines 4-11**).

Regarding claim 24, Bergendorff teaches a method according to claim 16, further comprising calculating the position of the first mobile radio communication device via a Road Trip Time (RTT), an Observed Time Difference of Arrival (OTDOA), and/or a Global Positioning System (GPS) position device in the first mobile radio communication device using the position information included in each radio information signal (**Pg. 3, lines 33-38**).

Regarding claim 25, Bergendorff teaches a method according to claim 24, wherein, in the calculating, position information received by the first mobile radio communication device is used. (**P1 is position information received by the first communication unit in Figure 1, Pg. 6, lines 10-12**)

Regarding claim 26, Bergendorff teaches a method according to claim 15, further comprising transmitting the position information received by the first mobile radio communication device to a position determining unit in the radio network which calculates a current local position of the first mobile radio communication device (**The positioning facility, base station or the second communication unit itself may determine the position of the first communication unit relative to GPS satellites after receiving other type of position information related to the first, from the first, Pg. 3, lines 33-38, Pg. 4, lines 1-5 and Pg. 6, lines 27-32**).

Regarding claim 27, Bergendorff teaches a radio communication device, comprising: an inquiry unit for requesting position information from at least one mobile radio communication device located in a radio cell of a radio network of a radio communication system or in a different radio cell, a position of the at least one mobile radio communication device being known to either the at least one mobile radio communication device or to the radio network; a receiving unit receiving at least one radio information signal respectively from the at least one mobile radio communication

device and evaluating the received at least one radio information signal, each radio information signal including position information of the known position of the respective at least one mobile communication device sending the radio information signal, wherein the at least one radio information signal is transmitted via either a direct radio connection or an indirect radio connection via the radio network (**Pg. 6, lines 29-32**).

Regarding claim 28, Bergendorff teaches a radio communication system comprising the radio communication device of claim 27 (**See claim 27**).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 17-18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergendorff, in view of Kang (**US Patent No. 6,836,653**).

Regarding claim 17, Bergendorff teaches a method according to claim 16.

Bergendorff does not teach before the emitting an inquiry signal, emitting a preceding inquiry signal from the first mobile radio communication device requesting that each second mobile radio communication device send an acknowledgement signal indicating a readiness thereof to participate in determination of the local position of the first mobile radio device. Kang teaches before the emitting an inquiry signal, emitting a preceding inquiry signal from the first mobile radio communication device requesting that each second mobile radio communication device send an acknowledgement signal indicating a readiness thereof to participate in determination of the local position of the first mobile radio device (**A method of applying a charge rate to a mobile station comprises a 1st mobile station requesting for a 2nd mobile station to confirm whether or not it is in a specific zone before the 2nd mobile location information is sent/determined, where the acknowledgement is made through transmission of subscriber information pertaining to the 2nd mobile station, Column 6, lines 7-10 and Column 10, lines 27-44**). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Bergendorff to have the second mobile station send this type of response signal for the purpose of proper billing and time efficiency.

Regarding claim 18, Bergendorff, in view of Kang, teaches the method according to claim 17. Kang further teaches transmitting, from the first mobile radio

communication device, after receipt of an acknowledgement signal, a retrieval signal retrieving position information of the second mobile radio communication device that sent the received acknowledgement signal (**Column 10, lines 61-67**).

Regarding claim 21, Bergendorff, in view of Kang, teaches a method according to claim 17. Bergendorff further teaches a predetermined minimum accuracy of a position of each second mobile radio communication device is a condition for each respective second mobile radio communication device to send the acknowledgement signal (**Pg. 7, lines 4-11**).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No 7,171,221 refers to a system and method for automatically transferring a call from a first telephone to a designated telephone in close proximity.

US Patent No 7,006,790 refers to a method and system for GPS bit-edge synchronization in the presence of burst-mode interference.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK DONADO whose telephone number is (571)

270-5361. The examiner can normally be reached on Monday-Thursday, 8 am-5 pm and at the same time on alternate Fridays, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rafael Perez-Gutierrez can be reached on 571-272-7915. The fax phone number for the organization where this application or proceeding is assigned is 571-270-6361.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-273-8300.

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/Lester Kincaid/

Supervisory Patent Examiner, Art Unit 2617